

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

NO. 3:20-CR-300-B (03)

v.

ERICK MONTGOMERY

FACTUAL RESUME

In support of Erick Montgomery's plea of guilty to the offense in Count One of the indictment, Montgomery, the defendant, Kevin B. Ross, the defendant's attorney, and the United States of America (the government) stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

To prove the offense alleged in Count One of the indictment, charging a violation of 18 U.S.C. §§ 922(u), 924(i)(1), and 2, that is, Stealing a Firearm from the Business Inventory of a Federally Licensed Dealer, the government must prove each of the following elements beyond a reasonable doubt:

18 U.S.C. § 922(u) & 18 U.S.C. § 924(i)(1)

First: That the defendant steals from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms;

Second: That the firearms that were stolen were a part of the licensee's inventory;

Third: That the stolen firearms were shipped or transported in interstate or foreign commerce; and

Fourth: That the defendant did so knowingly.¹

¹ The mental state related to 18 U.S.C. § 922(u) is found at 18 U.S.C. § 924(i)(1). *See id.* ("A person who knowingly violates section 922(u) shall be fined under this title, imprisoned not more than 10 years, or both.").

18 U.S.C. § 2²

First: That the offense of stealing firearms from a federally licensed dealer (18 U.S.C. § 922(u)) was committed by some person;

Second: That the defendant associated with the criminal venture;

Third: That the defendant purposefully participated in the criminal venture; and

Fourth: That the defendant sought by action to make that venture successful.

STIPULATED FACTS

1. Erick Montgomery admits and agrees that on May 31, 2020, in the Dallas Division of the Northern District of Texas, he, Demonte Tretion Kelly, and Lejael Justus Rudley, aiding and abetting one another, did knowingly and unlawfully steal, take, and carry away from DFW Gun Range, the premises of a person who was then licensed to engage in the business of dealing in firearms, multiple firearms (as alleged in the indictment) which were part of the licensee's business inventory and had been shipped or transported in interstate or foreign commerce.

2. At approximately 1:41 a.m. on May 31, 2020, Kelly, Rudley, and Montgomery pried open a door to DFW Gun Range, within the Dallas Division of the Northern District of Texas. At this time, the DFW Gun Range was licensed to engage in the business of dealing in firearms.

3. Once inside the store, Kelly, Rudley, and Montgomery, aiding and abetting each other, stole a variety of firearms from the business inventory of DFW Gun Range, including the following:

² Based on Fifth Circuit Pattern Jury Instruction (Crim.) 2.04 (2019).

- a Heckler and Koch, Model HK45 TAC, .45 caliber pistol, bearing serial number HKU-047769;
- a Heckler and Koch, Model HK45, .45 caliber pistol, bearing serial number KU-021617;
- a Smith and Wesson, Model M&P 15-22, .22 caliber rifle, bearing serial number HCD4734;
- a Glock, Model 44, .22 caliber pistol, bearing serial number ADPR626;
- a Glock, Model 41, .45 caliber pistol, bearing serial number ADXN963;
- a Glock, Model 35, .40 caliber pistol, bearing serial number BLHT877;
- a Glock, Model 41, .45 caliber pistol, bearing serial number YWE227;
- a SCCY, Model CPX-2, 9mm pistol, bearing serial number 901733;
- a SCCY, Model CPX-2, 9mm pistol, bearing serial number 901728;
- a Sig Sauer, Model P365, 9mm pistol, bearing serial number 66A823343;
- a Canik, Model TP-9, 9mm pistol, bearing serial number 20BC13120;
- a CZ, Model 97BD, .45 caliber pistol, bearing serial number D102645;
- a CZ, Model P-10, 9mm pistol, bearing serial number C948636;
- a CZ, Model P-10, 9mm pistol, bearing serial number D185135;
- a CZ, Model 75 B, 9mm pistol, bearing serial number D187346;
- a Walther, Model PPQ M2, 9mm pistol, bearing serial number FCW8175;

- a Troy, Model Carbine, 5.56mm rifle, bearing serial number DSE003806;
- a Sig Sauer, Model 224, .40 caliber pistol, bearing serial number 50E003389;
- a Sig Sauer, Model 224, .40 caliber pistol, bearing serial number 50E002212;
- a Sig Sauer, Model 224, .40 caliber pistol, bearing serial number 50E002984;
- a Sig Sauer, Model 1911 SUB TAR, .45 caliber pistol, bearing serial number 54B079201;
- a Smith & Wesson, Model M&P, 9mm pistol, bearing serial number JDU4835;
- a Smith & Wesson, Model M&P, 9mm pistol, bearing serial number JDU1341;
- a Smith & Wesson, Model M&P, 9mm pistol, bearing serial number JDX0519;
- a Smith & Wesson, Model M&P, .380 caliber pistol, bearing serial number NFK1580;
- a Smith & Wesson, Model M&P, 9mm pistol, bearing serial number JDP5111;
- a Smith & Wesson, Model M&P 45, .45 caliber pistol, bearing serial number NFE7398;
- a Smith & Wesson, Model M&P 45 Shield, .45 caliber pistol, bearing serial number JCN1442;
- a Smith & Wesson, Model M&P 45 Shield, .45 caliber pistol, bearing serial number HXE7370;
- a Springfield, Model Aficionado, .45 caliber pistol, bearing serial number NM531012;

- a FN Herstal, Model 509 Tactical, 9mm pistol, bearing serial number GKS0080219;
- a FN Herstal, Model FN45 Tactical, .45 caliber pistol, bearing serial number FX3U133070;
- a FN Herstal, Model 509 Tactical, 9mm pistol, bearing serial number GKS0080342;
- a FN Herstal, Model 503, 9mm pistol, bearing serial number CV006942;
- a DPMS, Model A-15, 5.56mm rifle, bearing serial number F006675;
- a Walther, Model PPQ M2, 9mm pistol, bearing serial number FCY3689;
- a Ruger, Model LCP2, .380 caliber pistol, bearing serial number 380348122;
- a Ruger, Model Mark IV, .22 caliber pistol, bearing serial number 500212028;
- a Kimber, Model Royal II, .45 caliber pistol, bearing serial number K473238;
- a Springfield, Model XDE, 9mm pistol, bearing serial number AT112492; and
- a Heckler and Koch, Model P30, .40 caliber pistol, bearing serial number 219-021623.

Each of the above-listed firearms had been shipped or transported in interstate or foreign commerce.

4. After stealing the firearms, Kelly sold multiple firearms to individuals located at Business A in Dallas, Texas.


EM
KSR
JAM

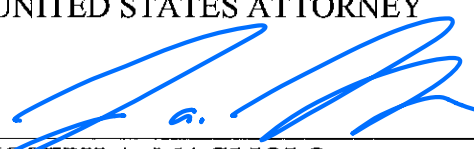
6. The defendant agrees that the defendant committed all the essential elements of the offenses. This factual resume is not intended to be a complete accounting of all the facts and events related to the offenses charged in this case. The limited purpose of this statement of facts is to demonstrate that a factual basis exists to support the defendant's guilty pleas to Count One of the indictment.

AGREED TO AND STIPULATED on this 9 day of November, 2020.

ERIN NEALY COX
UNITED STATES ATTORNEY


ERICK MONTGOMERY
Defendant


KEVIN B. ROSS
Attorney for Defendant


JOSEPH A. MAGLIOLO
Assistant United States Attorney
Texas State Bar No. 24074634
Dallas, Texas 75242-1699
1100 Commerce Street, Third Floor
Tel: 214-659-8600
Fax: 214-659-8803
Email: joseph.magliolo@usdoj.gov